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**ATTORNEYS FOR PLAINTIFF  
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

<b>UNITED STATES OF AMERICA,</b>	<b>CR 23-103-BLG-SPW</b>
<b>Plaintiff,</b>	
<b>vs.</b>	<b>VOIR DIRE</b>
<b>GABRIEL COWAN METCALF,</b>	
<b>Defendant.</b>	

The United States of America, represented by Thomas K. Godfrey and Zeno B. Baucus, Assistant United States Attorneys for the District of Montana, submits the following proposed voir dire questions, pursuant to Rule 24(a) of the *Federal Rules of Criminal Procedure*.

## **PART I - General Voir Dire**

### **I. Background Questions**

#### **A. Knowledge of parties and attorneys**

1. Does any member of the panel know Gabriel Cowan Metcalf, or any member of his family?

2. Does any member of the panel know the following potential witnesses for the United States?

a. Billings Police Officer Jeff Chartier

b. ATF SA Andrew Martian

c. Susan Kaas

d. Taylor Evans

e. Patricia Nagel

f. Cindy Nordstog

g. ATF SA Phil Swain

h. Justin Huck

i. ATF SA Stephen Williams

3. Does any member of the panel know the attorney for the defendant, Russell Hart?

4. Does any member of the panel know Assistant United States

Attorneys Thomas Godfrey or Zeno Baucus?

5. Do you know, have you been represented by, or have friends or relatives who know or have been represented by, the defendant's attorneys or any member of the defendant's attorneys' staff?

**B. Law Enforcement**

1. Have you ever received any training in law or law enforcement (police work of any kind)?

a. If you answered "yes," please describe the nature of your training and length of the training.

2. Has any member of the panel, or relative or close friend, ever been employed by any federal, state, local, or private law enforcement agency, such as a police department, a sheriff's office, a private security company, or a penitentiary or other custodial facility?

a. If so:

(1) in what capacity did you, your relative, or close friend serve?

(2) if a relative or close friend is or was so employed, do you or did you often discuss their work with them?

3. Does any member of the panel, or a relative or close friend, belong to

any organization that is connected or related in any way to law enforcement, police departments, or police officers?

4. Do you belong to or associate with any groups that have crime prevention or law enforcement as a primary goal?

**C. Previous Jury Service**

1. Has any member of the panel previously served as a juror?

a. If so, was the case civil or criminal in nature?

b. Did the jury reach a verdict?

c. Were you the foreperson?

**D. Previous Experience as a Party to Litigation**

1. Have you ever been a party to a lawsuit that has resulted in a trial?

a. If so:

(1) Were you a plaintiff or a defendant?

(2) What was the nature of the litigation?

(3) Do you believe that you and/or the party with whom you were associated with in the litigation were treated fairly or unfairly by the legal system?

2. What was the nature of the litigation and the outcome? Is there anything about that experience that would cause you difficulty in

being fair and impartial in this case?

**E. Dealings with the Government**

1. Have you or any of your relatives or close friends ever had any unfavorable dealings or involvement, for example, disputes, lawsuits, audits, etc., with the United States Government, in general, ATF, or the United States Attorney's Office, in particular?
2. Do any of you have any personal feelings against the federal government or the U.S. Attorney's Office in Montana for any reason?
3. Do any of you have any personal feelings against law enforcement in the state of Montana, including the Yellowstone County Sheriff's Office or Montana Highway Patrol?

**F. Legal Training and Experience**

1. Have you had any training in law? If so:
  - a. Are you a practicing attorney?
    - (1) What was/is your area of practice?
    - (2) Has your practice ever involved criminal law?
      - (a) As a prosecutor? If so, where and when?
      - (b) As a defense attorney? If so, please describe the nature of your criminal defense practice?

2. Are you now, or have you ever been, a member of any criminal defense or prosecution-oriented associations or organizations? If so, please elaborate.

3. If you have ever practiced criminal law, or presently practice criminal law, either as a prosecutor or defense attorney, would that experience prevent you from being a fair and impartial juror in this case?

4. Are any members of your family, close friends, or work associates attorneys or employed in law offices? If so, what type of law practice are they involved in?

**G. Involvement in the Criminal Justice System**

1. Have you, or has any member of your family, or any close friend, ever been the victim of a crime or participated in a criminal case as a complainant, witness for the government, or in some other capacity? If yes, please explain.

2. Have you, or has any member of your family, or any close friend, been arrested or the subject of a criminal investigation, or participated in a criminal case as a defendant, witness for the defense, or in some other capacity? If yes, please explain.

**II. Impairment and Bias Questions**

1. Do you have any physical or mental difficulties that might prevent

you from seeing or reading exhibits introduced in evidence, from hearing the testimony that will come from the witness chair or otherwise interfere with your duties as a fair and impartial juror?

2. Are you now taking or do you anticipate taking medication of any kind during the course of the trial? Does this medication in any way affect your attention or your ability to concentrate, understand, consider, and weigh the evidence in this case?

3. Do you have any convictions, whether moral, political, religious, philosophical, or otherwise, that would prevent you from being a fair and impartial juror in this case or that would make it difficult for you to sit in judgment? For example, do you believe that no one should ever be convicted? Do you believe that a person is guilty just because he is here in court?

4. Does any member of the panel feel that the criminal justice system treats those accused of a crime too harshly or too leniently?

5. Does any member of the panel know any reason why you would be unable to give either the United States or the defendant a fair trial based solely on the evidence admitted at trial and the instructions given by the Court without regard to sympathy, bias, or prejudice?

**PART II – CASE SPECIFIC VOIR DIRE**

This case involves the unlawful possession of a firearm. As such, it is a prosecution involving gun laws. With that in mind:

1. Is anyone associated in any manner with a group, society, or organization which advocates or supports the revision of the laws of the United States or of any state concerning the possession, use or sale of firearms of any type?
2. Does anyone have a close personal friend or relative who is or has been associated in any manner with such a group, society, or organization?
3. Does anyone personally believe that the criminal laws of the United States or of any state relating to firearms of any type should be abolished?
4. Does anyone have such strong personal or philosophical feelings about the general subject matters of the firearm laws so as to impair your ability to render a fair and impartial verdict in this case?
5. Does anyone feel strongly about a citizen's right to bear arms?
6. Are there any of you who do not believe that a person should be prohibited from possessing a firearm?



7. Does it matter to you whether the firearm is a handgun or a rifle? In other words, do you believe that it should be acceptable for a person to possess a rifle or a shotgun but not a handgun or visa-versa?

8. Are any of you prohibited by law from possessing a firearm?

9. Do any of you harbor any feelings regarding gun control which you believe would render you incapable of arriving at a fair and objective verdict based on the evidence?

10. Do you know of any reason why you may be prejudiced for or against the United States, for or against any witness, or for or against the defendant because of the nature of the charges or otherwise?

DATED this 18<sup>th</sup> day of March, 2024.

JESSE A. LASLOVICH  
United States Attorney

/s/ Thomas K. Godfrey  
THOMAS K. GODFREY  
Assistant U.S. Attorney

/s/ Zeno B. Baucus  
ZENO B. BAUCUS  
Assistant U.S. Attorney

**Certificate of Service**

I hereby certify that on March 18, 2024, a copy of the foregoing document was served on the following persons by the following means:

1-2 CM-ECF

\_\_\_\_\_ Mail

1. Clerk, United States District Court
2. Russell Hart  
Attorney for the Defendant

JESSE A. LASLOVICH  
United States Attorney

/s/ Thomas K. Godfrey  
THOMAS K. GODFREY  
Assistant U.S. Attorney

/s/ Zeno B. Baucus  
ZENO B. BAUCUS  
Assistant U.S. Attorney